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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 SACRAMENTO DIVISION

13 EXAMWORKS, LLC, a Delaware limited
14 liability company,

15 Plaintiff,

16 v.

17 TODD BALDINI, an individual, ABYGAIL
BIRD, an individual, LAWRENCE STUART
18 GIRARD, an individual, PAMELLA TEJADA,
an individual, ROE CORPORATION, and
19 DOES 1 through 10,

20 Defendants.
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Case No. 2:20-CV-00920-KJM-DB

**PLAINTIFF EXAMWORKS' NOTICE
OF MOTION AND MOTION FOR
LEAVE TO FILE THE THIRD
AMENDED COMPLAINT**

Judge: Hon. Kimberly J. Mueller
Place: Courtroom 3, 15th floor
Date: August 6, 2021
Time: 10:00 am PST

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD: PLEASE TAKE NOTICE
 2 that this Motion For Leave to File the Third Amended Complaint will be heard on **August 6,**
 3 **2021 at 10:00 am PST**, or as soon thereafter as counsel may be heard, in Courtroom 3, 15th Floor
 4 of the Robert T. Matsui Courthouse, 501 I Street, Sacramento, CA 95814, before the Honorable
 5 Kimberly J. Mueller.

6 This Motion is based on this Notice of Motion and Motion For Leave to File the Third
 7 Amended Complaint; Exhibit A to the Motion; the accompanying Memorandum of Points and
 8 Authorities; the Request for Judicial Notice and exhibits thereto; the Proposed Order; the record
 9 in this matter; and such and further papers, evidence, and argument as may be submitted in
 10 connection with this Motion.

11 Plaintiff ExamWorks, LLC (“ExamWorks”) will, and hereby does, move this Court,
 12 pursuant to Federal Rule of Civil Procedure 15(a)(2) for an order granting leave for ExamWorks
 13 to file a Third Amended Complaint in this action. ExamWorks’ proposed Third Amended
 14 Complaint and its exhibits are attached hereto as Exhibit A. The automatic stay on claims against
 15 Defendant Baldini, initiated by the filing of his bankruptcy case on January 5, 2021 pursuant to
 16 11 U.S.C. § 362(a), was terminated by Judge Christopher Klein on May 21, 2021. *See* Ex. C to
 17 the Request for Judicial Notice. Likewise, the automatic stay on claims against Defendant Girard,
 18 initiated by the filing of his bankruptcy case on January 29, 2021 pursuant to 11 U.S.C. § 362(a),
 19 was terminated by Judge Fredrick Clement on May 20, 2021. *See* Ex. F to the Request for
 20 Judicial Notice.

21 Both Judge Klein and Judge Clement recommended that—in the interest of judicial
 22 economy and due to this Court’s intimate familiarity with the parties, facts, and issues of the
 23 case—the nondischargeability of any monetary damages that may ultimately be granted upon
 24 final judgment be addressed by this Court instead. *See* Ex. A to the Request for Judicial Notice at
 25 6-7, 9-10; Ex. D to the Request for Judicial Notice at 4-6, 8-9. ExamWorks is therefore including
 26 the question of nondischargeability in the proposed Third Amended Complaint for the reasons
 27 given by Judge Klein and Judge Clement.
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1 Dated: June 21, 2021

ORRICK, HERRINGTON & SUTCLIFFE LLP

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3 By: /s/ Robert S. Shwarts
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5 Attorneys for Plaintiff
6 ExamWorks, LLC
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